

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
P.C. 8/13/03      Item 3.e.

File Number  
SF 03-007

Application Type  
Single-Family House Permit

Council District  
3

Planning Area  
Central

Assessor's Parcel Number(s)  
467-24-032

# STAFF REPORT

PROJECT DESCRIPTION      Completed by: Lee Butler

Location: 80 South 6<sup>th</sup> Street

Gross Acreage: 0.13      Net Acreage: 0.13      Net Density: 7.7 DU/AC

Existing Zoning: R-M Multiple Residence      Existing Use: Single-Family Residence

Proposed Zoning: No Change      Proposed Use: Single-Family Residence

GENERAL PLAN      Completed by: FLB

Land Use/Transportation Diagram Designation  
Medium High Density Residential (12-25 DU/AC)      Project Conformance:  
[X] Yes    [ ] No  
[X] See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING      Completed by: FLB

North: Multiple Family Residential      R-M Multiple Residence

East: Multiple Family Residential      R-M Multiple Residence

South: Single Family Residential      R-M Multiple Residence

West: Multiple Family Residential      R-M Multiple Residence

ENVIRONMENTAL STATUS      Completed by: FLB

[ ] Environmental Impact Report found complete      [x] Exempt  
[ ] Negative Declaration circulated on      [ ] Environmental Review Incomplete  
[ ] Negative Declaration adopted on

FILE HISTORY      Completed by: FLB

Annexation Title: Original City      Date: March 27, 1850

## PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

[X] Approval      Date: \_\_\_\_\_      Approved by: \_\_\_\_\_  
[ ] Approval with Conditions      [ ] Action  
[ ] Denial      [X] Recommendation  
[ ] Uphold Director's Decision

## APPLICANT/OWNER

Marvin Williams  
80 South 6<sup>th</sup> Street  
San José, CA 95112-3529

## PUBLIC AGENCY COMMENTS RECEIVED

Completed by: FLB

Department of Public Works

None received.

Other Departments and Agencies

None received

## GENERAL CORRESPONDENCE

None received.

## ANALYSIS AND RECOMMENDATIONS

**BACKGROUND**

The applicant is requesting a Single-Family House Permit to allow the conversion of 1,902 square feet of basement space and 482 square feet of attic space into habitable living space in an existing single-family Victorian residence located in the R-M Multiple Residence District at 80 South 6<sup>th</sup> Street. The existing residence has 4,008 square feet of habitable space. The proposed conversions will result in a 3-story residence with a total square footage of 6,392; a 120 square foot exterior deck is also proposed. The Zoning Code requires a Single-Family House Permit for a new or expanded residence where the residence:

1. Results in a Floor Area Ratio<sup>1</sup> (F.A.R.) of greater than 0.45; or
2. Exceeds two stories or 30 feet; or
3. Is a designated City Landmark, listed on the Historic Resources Inventory, or located in a Historic District or Conservation Area.

A Single-Family House Permit is required for this house addition because the F.A.R. exceeds 0.45, the proposed residence exceeds 2 stories, the house is greater than 30 feet in height, and the structure is listed as an Identified Structure on the Historic Resources Inventory. The proposed conversion will increase the existing F.A.R. from 0.68 to 0.76 on this 0.13 gross acre site. The proposed attic conversion increases the number of stories from 2 to 3, and the existing maximum height of 38 feet will remain unchanged. The Zoning Code specifies that the City Council is the decision-making body for Single-Family House Permits where the proposed house or expansion results in an F.A.R. greater than 0.65, where the residence exceeds two stories, or where the residence exceeds 30 feet in height.

The site is surrounded by residential uses, single-family to the south and multi-family to the north, west, and east.

**ENVIRONMENTAL REVIEW**

The proposed project is exempt from environmental review under Section 15301 of the California Environmental Quality Act Guidelines because it consists of a minor alteration of an existing single-family structure.

<sup>1</sup> The Floor Area Ratio (FAR) is the ratio of the total habitable square footage of the house, excluding the garage and basement, to the total square footage of the lot.

## GENERAL PLAN CONFORMANCE

The site has a General Plan Land Use/Transportation Diagram designation of Medium High Density Residential (12-25 DU/AC), and the existing single-family residential use equates to a density of 7.7 dwelling units per acre.

The General Plan text states that “any developed parcel of two acres or less is deemed to be in conformance with the General Plan regardless of how it is designated.” Because the parcel is already developed with a single-family residence, the proposed expansion of that residence is consistent with the General Plan goals and policies.

## ANALYSIS

The primary issues for this proposal are conformance with the Zoning Ordinance, the Secretary of the Interior’s Standards for Rehabilitation of Historic Structures, and the *Single-Family Design Guidelines*.

### Zoning Code Conformance

The R-M - Multiple Residence Zoning District allows up to a maximum of 3 stories. Section 20.200.120 of the San José Municipal Code defines a basement as “that portion of a building below grade situate between grade and the upper surface of the floor next above, except that if said upper surface of the floor next above is more than six (6) feet above grade, such portion shall be deemed to be a story of the building rather than a cellar or basement.” Because the elevation of the first finished floor does not exceed 6 feet above grade, the lowest level of the residence proposed for improvement with this permit is considered a basement and not a story. The uppermost level, where 492 square feet of habitable space is being added, is considered a full story and not a half story because the wall plates on at least two opposite exterior walls extend more than 2 feet above the finished floor level. The 3 levels above the bottommost level each constitute a story, therefore, the maximum allowable number of stories, 3, is being met.

The current Zoning Code requires 2 covered parking spaces for a single-family detached residence, however, research indicates that historically, no covered parking spaces have been provided at the site. Because the house was constructed without covered parking in 1900, predating the Zoning Ordinance requirement for those covered parking spaces, no covered parking is required on the site. Five uniform sized uncovered parking spaces are provided at the rear of the property. The parking spaces stretch across the rear property line, and gravel covers the entire rear yard area. This Single-Family House Permit regulates the residential structure only, and the Zoning Code does not require that the rear yard be landscaped.

The proposed plans call out 8 bedrooms and 6 bathrooms. The Zoning Code does not set a limit on the maximum size of, or number of, bedrooms in a single-family residence. The Zoning Code does, however, in Section 20.30.110 state the incidental uses permitted in addition to the occupancy of the dwelling as a residence.

Among the listed uses, the rental of rooms in a one family dwelling to up to three guests is allowed, provided that such use is clearly incidental to the occupancy of the dwelling unit by said family as its own residence. The single-family residence must function as a single housekeeping unit, as defined in Section 20.200.1130 of the Zoning Ordinance.

### Conformance with the Secretary of the Interior’s Standards

The only exterior change proposed to the historic Victorian home is the addition of a new, 120 square foot exterior open deck area at the rear of the third story of the structure. The front façade will remain unchanged, and no other changes are proposed to the exterior of the structure. The Secretary of the Interior’s Standards for Rehabilitation of Historic Structures require that “new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity

of the property and its environment.” The proposed cedar shingles at the new deck area are compatible with the cedar shingles at the front of the residence, however, they will be differentiated from the existing cedar shingles by not matching them exactly. Similarly, the proposed railings for the new deck are to be compatible with the existing railings at the front of the house without matching them exactly. For these reasons, the only proposed exterior changes to the structure conform with the Secretary of the Interior’s Standards for Rehabilitation of Historic Structures.

### Conformance with Single-Family Design Guidelines

The existing structure and the work proposed are in substantial conformance with the City’s *Single-Family Design Guidelines*. While the project proposes no change to the setbacks, front porch, or parking area, the front setback is consistent with the pattern of development on the same side of the street, the front porch addresses the street well and is consistent with the architecture of the Victorian structure, and the rear parking is consistent with the dominant pattern on the same side of the street. The majority of the proposed work consists of conversion of existing interior space. This interior conversion will increase the value of the residence without negatively affecting the character or pattern of development of the surrounding neighborhood.

### **RECOMMENDATION**

The Planning staff recommends that the Planning Commission recommend approval of the requested Single-Family House Permit and the City Council adopt a resolution approving the project.

### **FACTS**

1. The project site has a designation of Medium High Density Residential (12-25 DU/AC) on the adopted *San José 2020 General Plan Land Use/Transportation Diagram*.
  - a. The site is less than 2 acres in size and developed with an urban use (single family), therefore, the existing use is deemed in conformance with the General Plan regardless of its designation.
2. The project site at 80 South 6<sup>th</sup> Street is located in the R-M Multiple Residence Zoning District.
3. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
4. The project includes conversion of an existing attic and basement to living space resulting in a proposed Floor Area Ratio (FAR) of 0.76 as defined in the San José Municipal Code, Section 20.100.1020.
5. The existing single-family residence on the site is 38 feet in height.
6. The proposed single-family residence is three stories.
7. The existing single-family house is listed on the Historic Resources Inventory as an Identified Structure.
8. In accordance with Part 9 of Chapter 20.100 of the San José Municipal Code, a Single-Family House Permit is required for this application because the conversion of the attic to living space results in an FAR of greater than 0.45, because the addition of new habitable floor area is above 30 feet high and above the

second story, and because the structure is listed on the Historic Resources Inventory. The Zoning Code specifies that the City Council is the decision-making body for a Single-Family House Permit where the proposed house or addition is taller than two stories and where the resulting FAR exceeds 0.65.

9. The Single Family Design Guidelines specify that the architectural style of a new addition or modification to an existing single-family house should be generally consistent with the architectural style of the existing dwelling.
10. The only proposed change to the exterior of the house is the addition of a new open deck and railings at the rear of the residence on the third story. The materials to be used for the door to and railings on the new deck are to match the existing door and railing materials from the front of the residence, however, they are to be simpler in design.
11. The project does not include demolition of 50 percent or more of the existing exterior walls as defined in San José Municipal Code 20.80.420.

### **ANALYSIS OF FACTS**

1. The project is consistent with the *General Plan/Transportation Land Use Diagram* designation of Medium High Density Residential (12-25 DU/AC).
2. The proposed project is in compliance with the California Environmental Quality Act (CEQA).
3. A Single-Family House Permit is required, in accordance with Part 9 of Chapter 20.100, as the project proposes erection, construction, enlargement, placement or installation, or exterior alterations of a single-family house where the FAR exceeds 0.45, where the structure exceeds 30 feet and two stories, and where the structure is listed on the Historic Resources Inventory.
4. The proposed project is in conformance with the Secretary of the Interior's Standards for Rehabilitation of Historic Structures.
5. The proposed project is in substantial conformance to the *Single-Family Design Guidelines*, adopted by the City Council on December 14, 1999.

### **FINDINGS**

1. The interrelationship between the orientation, location, and elevations of the proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
2. The orientation, location, and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on the adjacent property or properties.

### **CONDITIONS**

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
3. **Release of Permit.** No demolition of the structure may be implemented unless and until this Single-Family House Permit is released to the Building Division.
4. **Exterior Alterations.** No exterior alterations to the structure may be implemented unless and until this Single-family House Permit is released to the Building Division.
5. **Conformance with Plans.** Construction and development shall conform to approved Single Family House Permit Development plans entitled, "Williams Victorian" dated July 14, 2003, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04). Modification of the project plans prior to Final Inspection of the Building Permit shall require additional permits as deemed necessary by the Director of Planning. Following Final Inspection of the Building Permit, modification of the structure shall conform to the permit requirements of Part 9 of Chapter 20.100 of the San José Municipal Code.
6. **Deadline for Commencing Construction.** This Single-family House Permit shall automatically expire one year from and after the date of issuance hereof by said Director if within such one-year period construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Single-family House Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to one year. The Permit Adjustment must be approved prior to the expiration of this Permit.
7. **Revocation.** This Single-family House Permit is subject to revocation for violation of any of its provisions or conditions.
8. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
9. **Acceptance.** The "Acceptance of Permit and Conditions" form shall be *signed, notarized, and returned* to the Department of Planning, Building and Code Enforcement within **60 days** from the date of issuance of permit. *Failure to do so will cause this permit to automatically expire regardless of any other expiration date contained in this permit.*
10. **Nuisance.** As required by Title 20 of the San José Municipal Code, construction on this site shall be conducted

in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.

11. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
12. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* The permit file number, SF03-007, shall be printed on all construction plans submitted to the Building Division.
13. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
14. **Protection of Storm Drains.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet. The storm drain system flows to the Bay.
15. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
16. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and to the hours of 8:00 a.m. to 7:00 p.m. on Saturdays, Sundays and legal holidays, except that construction may occur at any hour within a totally enclosed building if such construction is not audible at the property line and does not result in a public or private nuisance.

c: Larry Daeumler, Building Division